

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.)
W. A. DREW EDMONDSON, in his capacity as)
ATTORNEY GENERAL OF THE STATE OF)
OKLAHOMA and OKLAHOMA SECRETARY)
OF THE ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF OKLAHOMA,)
Plaintiff,)
vs.) 05-CV-0329 TCK-SAJ
TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)
AVIAGEN, INC., CAL-MAINE FOODS, INC.,)
CAL-MAINE FARMS, INC., CARGILL, INC.,)
CARGILL TURKEY PRODUCTION, LLC,)
GEORGE'S, INC., GEORGE'S FARMS, INC.,)
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)
and WILLOW BROOK FOODS, INC.,)
Defendants.)
TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,)
GEORGE'S, INC., GEORGE'S FARMS, INC.,)
PETERSON FARMS, INC., SIMMONS FOODS, INC.,)
and WILLOW BROOK FOODS, INC.,)
Third Party Plaintiffs,)
vs.)
City of Tahlequah, *et al.*,)
Third Party Defendants.)

RESPONSES OF DEFENDANT, PETERSON FARMS, INC.
TO STATE OF OKLAHOMA'S JULY 10, 2006
SET OF REQUESTS FOR PRODUCTION

Request for Production No. 106: Please produce all documents and materials reflecting, referring to or relating to any legal disputes or lawsuits regarding the nature or character of the legal relationship between you and your contract growers.

Response: Peterson Farms objects to this request as overly broad and burdensome as it is not limited in time or to operations within the Illinois River Watershed. Peterson objects to this request as it also includes within its scope documents which are neither relevant, nor will they lead to the discovery of admissible evidence. Peterson Farms objects to this request as it includes documents within its scope which are protected from disclosure, *see* General Objection No. 3. Without waiving the foregoing objections and the General Objections, Peterson Farms has not identified any non-privileged documents responsive to this request.

Request for Production No. 107: Please produce all documents and materials reflecting, referring to or relating to your net worth.

Response: Peterson objects to this request as it includes within its scope documents which are neither relevant, nor will they lead to the discovery of admissible evidence. Peterson Farms objects to this request as it includes documents within its scope which are protected from disclosure as confidential business information. Without waiving the foregoing objections and the General Objections, Peterson Farms will produce a copy of its current balance sheet in accordance with the terms of the Confidentiality Order entered by the Court in this case.

Request for Production No. 108: Please produce copies of any charts, diagrams or schematics reflecting your present and / or past corporate structure and relationship to any corporate affiliates.

Response: Peterson Farms objects to this request as overly broad and burdensome as it is not limited in time. Peterson objects to this request as it also includes within its scope

Respectfully submitted,

By /s/ Philip D. Hixon

A. Scott McDaniel (Okla. Bar No. 16460) smcdaniel@jpm-law.com

Chris A. Paul (Okla. Bar No. 14416)

Nicole M. Longwell (Okla. Bar No. 18771)

Philip D. Hixon (Okla. Bar No. 19121)

JOYCE, PAUL & McDANIEL, PLLC

1717 South Boulder Ave., Suite 200

Tulsa, Oklahoma 74119

(918) 599-0700

-and-

Sherry P. Bartley (Ark. Bar No. 79009)

Appearing Pro Hac Vice

MITCHELL, WILLIAMS, SELIG,

GATES & WOODYARD, P.L.L.C.

425 W. Capitol Ave., Suite 1800

Little Rock, Arkansas 72201

(501) 688-8800

COUNSEL FOR DEFENDANT

PETERSON FARMS, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**STATE OF OKLAHOMA, ex rel.
W. A. DREW EDMONDSON, in his capacity as
ATTORNEY GENERAL OF THE STATE OF
OKLAHOMA and OKLAHOMA SECRETARY
OF THE ENVIRONMENT C. MILES TOLBERT,
in his capacity as the TRUSTEE FOR NATURAL
RESOURCES FOR THE STATE OF OKLAHOMA,**

Plaintiff,

vs.

**TYSON FOODS, INC., TYSON POULTRY, INC.,
TYSON CHICKEN, INC., COBB-VANTRESS, INC.,
AVIAGEN, INC., CAL-MAINE FOODS, INC.,
CAL-MAINE FARMS, INC., CARGILL, INC.,
CARGILL TURKEY PRODUCTION, LLC,
GEORGE'S, INC., GEORGE'S FARMS, INC.,
PETERSON FARMS, INC., SIMMONS FOODS, INC.,
and WILLOW BROOK FOODS, INC.,**

Defendants.

05-CV-0329 GKF-SAJ

**RESPONSES OF DEFENDANT, PETERSON FARMS, INC.
TO STATE OF OKLAHOMA'S SEPTEMBER 13, 2007
SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION**

Defendant, Peterson Farms, Inc. ("Peterson Farms"), submits the following Responses to State of Oklahoma's September 13, 2007 Set of Interrogatories and Requests for Production to All Defendants, pursuant to Federal Rules of Civil Procedure 26, 33 and 34.

GENERAL OBJECTIONS:

1. Peterson Farms objects to, and does not agree to subject itself to, the arbitrary and extraordinary "definitions and instructions" described by the Plaintiffs to certain terms as set forth in their September 13, 2007 Set of Interrogatories and Requests for Production propounded to All Defendants. To the extent that such terms appear in the Interrogatories and Requests for

Request for Production No. 10: To the extent you have not already produced them, please produce copies of any documents reflecting any direct or indirect ownership interest that you have or have had in the past 25 years in any entity that raises / feeds poultry or owns poultry in the Illinois River Watershed, as well as copies of documents relating to the nature of the interest in any such entities, any other owners of any such entities, the management structure and composition of any such entities, the date when the interest in any such entities began and (if applicable) when such interests terminated, if such interests terminated the reasons they terminated and what became of the interests, and the number of birds raised / fed annually in the IRW by any such entities.

Response: Peterson Farms incorporates its objections and response to Interrogatory No. 10 as though fully re-stated herein. Subject to and without waiving the foregoing objections and its General Objections, Peterson Farms states that it does not possess any documents responsive to this request.

Request for Production No. 11: To the extent you have not already produced them, please produce copies of all documents reflecting your financial statements for fiscal years 2002 to the present, as well as any other documents reflecting your net worth for fiscal years 2002 to the present. For purposes of this request for production, the term "financial statement" includes, but is not necessarily limited to, balance sheets, statements of income, statements of equity position, statements of cash flow, and all footnotes.

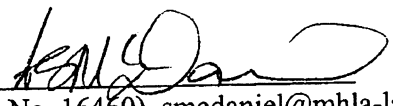
Response: Peterson Farms objects to this request as duplicative of Request No. 107 of Plaintiffs' July 10, 2006 Requests for Production, and incorporates its objections and response to said request as though fully re-stated herein.

applied to the environment, and/or (c) the environmental and/or human health effects or dangers of the run-off / release / discharge of poultry waste (or any constituents thereof) from land on which it has been applied to the environment.

Response: Peterson Farms objects to this request to the extent it seeks the disclosure of information protected from discovery and specifically incorporates its General Objection No.

3. Subject to and without waiving the foregoing objection and its General Objections, Peterson Farms states that all non-privileged documents responsive to this request have been previously produced in response to prior requests.

Respectfully submitted,

By /s/ A. Scott McDaniel 
A. Scott McDaniel (Okla. Bar No. 16460) smcdaniel@mhla-law.com
Nicole M. Longwell (Okla. Bar No. 18771) nlongwell@mhla-law.com
Philip D. Hixon (Okla. Bar No. 19121) phixon@mhla-law.com
MCDANIEL, HIXON, LONGWELL & ACORD, PLLC
320 S. Boston Ave., Suite 700
Tulsa, Oklahoma 74103
(918) 382-9200

-and-

Sherry P. Bartley (Ark. Bar No. 79009)
Appearing Pro Hac Vice
MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.
425 W. Capitol Ave., Suite 1800
Little Rock, Arkansas 72201
(501) 688-8800
**COUNSEL FOR DEFENDANT
PETERSON FARMS, INC.**



Elizabeth C. Ward
Licensed in SC
DIRECT DIAL 843.216.9280
DIRECT FAX 843.216.9440
LWard@motleyrice.com

October 24, 2008

Via Email

Scott McDaniel, Esquire
McDaniel, Hixon, Longwell, Accord, PLLC
320 S. Boston Avenue, Ste. 700
Tulsa, OK 74103

Re: State of Oklahoma, et al. v. Tyson et. al.
Civil Action Number: 05-CV-0329-GKF-SAJ

Dear Mr. McDaniel:

I write to address Defendant Peterson Farms, Inc.'s responses to the State's July 10, 2006 (No. 107) and September 13, 2007 (No. 11) Requests for Production of Documents. As indicated in Peterson Farms, Inc.'s response to No. 107, please produce a copy of your current balance sheet.

In addition to the "balance sheet" that you have agreed to produce, the State requests additional financial information, as set forth below, so that it can complete its analysis. For the purpose of these requests, unless otherwise indicated, the terms "year" or "year end" means the fiscal or calendar year depending on the reporting year selected by Peterson Farms, Inc. The term "company" means Peterson Farms, Inc. Please provide the following:

1. Audited financial statements with all notes for years ending in calendar years 2003 through 2008.
2. Unaudited internal financial statements for most recent two year ends and most recent interim date. If audited statements are not available as requested above, please provide unaudited, reviewed and/or complied financial statements for years ending in calendar years 2003 through 2008.
3. Working trial balance at most recent year end and most recent interim financial reporting period.
4. Tax returns for 2006 and 2007, including all supporting schedules, disclosures, and detailed appreciation schedules.
5. Copy of any appraisal valuation or estimation of value prepared for or in connection with your business operations commencing in 2006, including the following:

www.motleyrice.com

Motley Rice LLC
Attorneys at Law



MT. PLEASANT

28 BRIDGESIDE BLVD.
P.O. BOX 1792
MT. PLEASANT, SC 29465
843-216-9000
843-216-9450 FAX

PROVIDENCE

321 SOUTH MAIN ST.
P.O. BOX 6067
PROVIDENCE, RI 02940
401-457-7700
401-457-7708 FAX

HARTFORD

ONE CORPORATE CENTER
20 CHURCH ST., 17TH FLOOR
HARTFORD, CT 06103
860-882-1681
860-882-1682 FAX

340-Bayonne, N. J.

**PLAINTIFF'S
EXHIBIT**

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Scott McDaniel, Esquire
October 24, 2008
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- assessment of tangible assets such as real property or equipment;
- assessments of any stocks, securities, options, or other forms of securities issued by the company including but not limited to those documents utilized for financial
- reporting pursuant to Statement of Financial Accounting Statements ("SFAS") No. 123R and APB Opinion No. 25;
- collateral or business enterprise assessments issued to any financial institutions;
- assessments of cash flows employing discounting methods or other methods of valuing or estimating the fair value of long lived assets, business segments, trademarks or other intangibles including all documents prepared pursuant to the requirements of SFAS No. 159; and
- assessments of closely held shares for use in gifting, transferring, or assigning such shares in the company.

6. Copies of business plans, financial projections, forecasts, and pro forma financial statements issued to any lending institutions, investment/capital group, investment banker, broker, merger, candidate, acquisition candidate, outside auditor, or any other party contemplating and/or consummating a significant financial transaction with the company since 2006.

7. Copies of internally prepared budgets and forecasts utilized by management for planning, managing, or monitoring the company's operating results since 2006.

I understand that there are confidentiality concerns with respect to some or all of these documents. I have already obtained a signed confidentiality acknowledgment by any company or individual to whom the State will provide this information. Please provide the documents requested above by Friday, October 31, 2008. Alternatively, please provide me with a time prior to Friday, October 31, 2008 that we can hold a meet and confer regarding this request.

Sincerely,



Elizabeth C. Ward

ECW:jmh

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

MAY 03 2002

Phil Lombardi, Clerk
U.S. DISTRICT COURT

THE CITY OF TULSA, and THE TULSA)
METROPOLITAN UTILITY AUTHORITY,)

PLAINTIFFS,)

vs.)

CASE No. 01-CV-900-B (X)

TYSON FOODS, INC., COBB-)
VANTRESS, INC., PETERSON FARMS,)
INC., SIMMONS FOODS, INC.,)
CARGILL, INC., GEORGE'S, INC.,)
and CITY OF DECATUR, ARKANSAS,)

DEFENDANTS.)

ORDER

This order addresses the Plaintiffs' Motion to Compel [Dkt. 76] which has been referred to the undersigned United States Magistrate Judge for decision. This order also resolves Defendant Cargill, Inc.'s Motion for Protective Order [Dkt. 85] which has also been referred to the undersigned United States Magistrate Judge for decision. A hearing was held on these motions on May 1, 2002.

Plaintiffs' motion concerns four discovery requests while Defendant Cargill, Inc.'s motion for protective order addresses one of those requests by Plaintiff. At the Rule 37 conference, the Defendants agreed to provide responsive documents for all growers within the watershed since 1996. Plaintiffs reserved the right to move to compel responsive documents for earlier years. However, in the current motion to compel, Plaintiffs confine their request for relief to documents responsive for growers

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within the watershed since 1996. The Court will address each of Plaintiffs' discovery requests in turn.

Plaintiffs' Request for Production No. 3:

At the hearing, Plaintiffs expressed concern that various objections interposed by the Defendants in their responses left uncertainty as to whether the Defendants had fully responded to the request. The Defendants responded that they had provided all responsive documents for all growers within the watershed since 1996, with the exception of Defendant Peterson Farms, Inc., which stated that it had provided summary information concerning all growers within the watershed since 1996, believing this to be in compliance with the agreements at the Rule 37 conference. Defendant Peterson Farms, Inc., stated that it could provide responsive documents for all growers within the watershed since 1996 within one week of the hearing.

Based upon the representations at the hearing and to remove any uncertainty on the issue, the Court grants the Plaintiffs' Motion to Compel and orders each of the Defendants to serve a supplemental response to Plaintiffs' Request for Production No. 3 within seven (7) days of the date of this order, which clearly states that the Defendant has produced all responsive documents for all growers within the watershed since 1996. Defendant Peterson Farms, Inc., is hereby ordered to produce the responsive documents along with his supplemental discovery response.

Plaintiffs' Request for Production No. 4:

With the exception of specific issues concerning Defendant Simmons Foods, Inc. and Cargill, Inc., the Defendants advised the Court at the hearing that they had

provided all documents responsive to Request for Production No. 4 for all of the growers within the watershed since 1996. For the same reasons discussed with respect to Request for Production No. 3, the Court orders the Defendants to serve a supplemental discovery response upon Plaintiffs stating that they have provided all documents responsive to Plaintiffs' document request No. 4 for all growers within the watershed since 1996. This supplement shall also be filed within seven (7) days of the date of this order.

Defendant Simmons Foods, Inc. objects to providing responsive documents concerning the terms of payment to the contract growers or the total payment amounts. Simmons contends that this information exceeds the scope of discovery, constitutes sensitive confidential proprietary business information of Simmons, especially in this competitive market when its competitors are co-defendants in this lawsuit and that the independent contract growers who are not parties to this litigation have a reasonable expectation of privacy with regard to these financial matters. After hearing Simmons' argument and reviewing the authorities cited, the Court is unpersuaded. The Court concludes that the amount of money paid to the contract growers is clearly within the scope of discovery under Fed. R. Civ. P. 26. The growers who received these financial payments are alleged by Plaintiffs to be the agents of the Defendants and the Plaintiffs contend that the payments are one aspect of the control which the Defendants have over the growers. The Court finds that the amount of those payments is certainly relevant to Plaintiffs' allegations in the discovery context.

Defendant Simmons' arguments concerning the confidential proprietary business nature of the information are adequately addressed by the protective order already in place in the case. This protective order likewise protects whatever privacy interests the growers have in this information. Defendant Simmons' objection is therefore overruled and Plaintiffs' Motion to Compel is granted with regard to this information. Defendant Simmons Foods, Inc. shall produce the responsive documents to Plaintiffs within seven (7) days of the date of this order.

Defendant Cargill, Inc. represented at the hearing that the responsive information has been provided to Plaintiffs in the form of reports and contract files with the exception of reports which will be produced within two weeks of the date of the hearing and some additional reports which are yet to be located but which will be produced upon being located. If the documents are not produced in a timely fashion, this issue shall be resolved by expedited telephone conference with the undersigned. Defendant Cargill also advised the Court that it had redacted the identity of the grower from various site reports which had been produced to Plaintiff. Defendant Cargill contends that the names were redacted to avoid embarrassment to the growers based upon adverse comments contained within the reports. The Court finds that this is an insufficient reason to redact the names of the growers and hereby orders Defendant Cargill, Inc. to produce unredacted site reports to Plaintiffs within seven (7) days of the date of this order.

Defendant Cargill also advised that it had redacted the social security numbers and bank account numbers from various files produced to the Plaintiffs. Plaintiffs did

not specifically object to this redaction and the Court at this stage concludes that this redaction may be appropriate. The Court, therefore, does not order Cargill to provide unredacted documents with social security and bank account numbers.

Based upon the above discussion, Plaintiffs Motion to Compel responses to Request for Production No. 4 are granted as set forth above.

Request for Production No. 26:

Through this request, Plaintiffs seek access to detailed financial information concerning each of the Defendants. In support of the request, Plaintiffs assert that such information will be relevant to Plaintiffs' punitive damage claim and also relevant to the economic feasibility of remedies which might be imposed in this case to correct the alleged problems claimed by Plaintiffs in their complaint.

Defendants argue that the simple filing of a punitive damage claim should not permit Plaintiffs unfettered access to their financial information especially since the Defendants are competitors and all but Defendant Tyson Foods, Inc. are privately held entities who do not disclose their financial information. Defendants suggest delaying this discovery until the Court rules on dispositive motions or even until trial.

From the briefs and authorities cited therein, along with the argument of counsel at the hearing, the Court is persuaded that some discovery of the Defendants' financial condition should be permitted. It is not a workable solution to await rulings on summary judgment motions or determinations during trial as to whether punitive damage instructions will be given before permitting discovery of the Defendants' financial conditions. That being said, Plaintiffs have not articulated sound reasons for

permitting detailed discovery of the Defendants' private financial affairs. Based upon Plaintiffs' arguments, it would appear that financial statements reflecting the Defendants' net worth from 1996 forward would be sufficient for the Plaintiffs' needs.

The Court therefore grants Plaintiffs' Motion to Compel to the extent that the Defendants are hereby ordered to produce to Plaintiffs within seven (7) days of the date of this order, documents reflecting their net worth from 1996 forward. This order is without prejudice to Plaintiffs' re-urging the motion should additional financial information be necessary as the case progresses.

Interrogatory No. 2:

By this interrogatory, Plaintiffs seek the identity of the Defendants' accountants and financial consultants. Based upon the Court's decision regarding production of financial documents, the Court concludes that Plaintiffs are not entitled to discover the identity of the Defendants' accountants or financial consultants at this stage in the litigation.

Conclusion

Plaintiffs' Motion To Compel Production of Documents [Dkt. 76] is GRANTED IN PART and DENIED IN PART as set forth above. Defendant Cargill, Inc.'s Motion for Protective Order [Dkt. 85] is GRANTED IN PART and DENIED IN PART as set forth above.

SO ORDERED this 3rd day of May, 2002.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
)	
)	
Plaintiff,)	
)	
vs.)	
)	No. 05-cv-329-GKF(PJC)
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

AFFIDAVIT OF DAVID R. PAYNE

STATE OF OKLAHOMA §
 §
 COUNTY OF OKLAHOMA §

Before me, the undersigned authority authorized to administer oaths in the State of Oklahoma, personally appeared David R. Payne. After being duly sworn, David R. Payne stated under oath as follows:

1. My name is David R. Payne. I am over eighteen years of age and have never been convicted of a felony. I am otherwise competent to testify under oath and to execute this affidavit. The facts stated herein are based upon my personal knowledge and are all true and correct.

2. I am a firm managing director of the firm of D.R. Payne & Associates, Inc. ("DRPA") and Business Valuers & Appraisers L.L.C. ("BVA") in Oklahoma City, Oklahoma. DRPA and BVA provide both forensic and financial consulting services in addition to opinions of value regarding businesses and their assets.

3. I am a certified public accountant, accredited senior appraiser, a certified turnaround professional and a certified insolvency and restructuring



advisor. I also hold two additional valuation designations. I regularly examine businesses and their assets, liabilities and operations to evaluate financial attributes affecting value liquidity and solvency, for purposes of assessing a business' ability to pay its obligations, commitments and liabilities.

4. DRPA has been retained by the Plaintiff in this action with respect to evaluating and assessing the financial condition and net worth of certain named defendant entities ("Defendants") as it impacts their ability to pay a claim, judgment or award of damage ("Ability To Pay"). Ability to Pay considers various financially oriented elements ("Financial Attributes") which include the nature, composition and quality of the Defendants' assets, liabilities, earnings and cash flows. The starting point for assessing the Financial Attributes affecting financial condition involves an evaluation of data as reported by the Defendants' in their books, records and financial statements ("Book Values"). Ability To Pay also considers true economic or intrinsic value ("Economic Value"), normalized earnings, and discretionary cash flows ("Earning Capacity") under the control of the managements for the Defendants.
5. Seven (7) of the Defendants are controlling parent entities and/or stand alone defendants ("Tier 1 Companies or Defendants") while six (6) Defendants are subsidiary companies ("Tier 2 Companies or Defendants") operating under the control of the Tier 1 Companies. The Tier 1 Companies generally report their financial results and file tax returns on a consolidated, to the extent there are any, basis which includes the Tier 2 Companies. Tier 1 Companies are normally required to undergo annual financial audits in order to meet registration, lending, management and/or shareholder requirements ("Stakeholder Requirements").
6. Annual financial audits of Tier 1 companies employ generally accepted accounting principles ("GAAP") which require that informative footnote disclosures be included with financial statements ("GAAP Statements"). In contrast, Tier 2 Companies may not be required to: (i) undergo separate, stand alone financial audits; (ii) keep their records on a GAAP basis; or (iii) provide separate footnote disclosures with their financial statements. Nevertheless, Tier 2 Companies' financial results, to the extent there are any, are subjected to audit procedures and are consolidated into the Tier 1 Companies' financial statements. The consolidated audit reports incorporate but do not segregate and delineate the financial results of any specific Tier 2 Defendant from other non-defendant entities under the Tier 1 Companies' consolidated control. Therefore, the financial statement data for Tier 2 Companies are readily available in the ordinary course from files utilized to conduct the annual audits.

7. GAAP Statements require informative footnote disclosures ("Footnote Disclosures") and have significantly more market based data when compared to: (i) financial statements prepared on another comprehensive basis of accounting ("OCBOA Statements"); and (ii) partial presentations (i.e. balance sheet only) of GAAP Statements ("Partial Presentation Statements"). Additionally, companies filing reports with the Securities and Exchange Commission ("SEC Registrants") pursuant to Regulations S-X and S-K provide further narrative disclosures of the business and its prospective outlook in text formats ("Text Disclosures").
8. Only two of the Defendants, (Tyson Foods, Inc. and Cal-Maine Foods, Inc.) are SEC Registrants who provide GAAP Statements, Footnote Disclosures and Text Disclosures. Based upon my training and experience with privately held companies similar to the remaining five (5) Tier 1 Companies (Cargill, Inc., George's, Inc., Peterson Farms, Inc., Simmons Foods, Inc. and Willow Brook Foods, Inc.), GAAP Statements and Footnote Disclosures are generally prepared and are available in the ordinary course of business due to Stakeholder Requirements. However, Cargill, Inc., George's, Inc., Peterson Farms, Inc. and Simmons Foods, Inc. have not provided a complete set of GAAP Statements with Footnote Disclosures. According to audited financial statements, the Footnote Disclosures are considered integral and relevant data. Audited financial statements of the Defendants include written references such as the following:


"The accompanying notes are an integral part of these financial statements"

(Source: Willow Brook and/or Simmons
12/31/06 Audited Financial Statements)

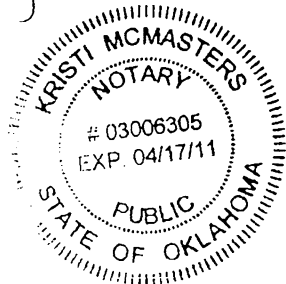
Additionally, none of the Tier 1 Defendants except for the two SEC Registrants have provided complete sets of current 2008 unaudited financial statements and data which should be available from their December 2008 records pursuant to meeting their Stakeholder Requirements. Willow Brook Foods, Inc. and Simmons Foods, Inc. only provided October 2008 balance sheets. George's Inc. provided a compiled income statement and balance sheet for August 2008.

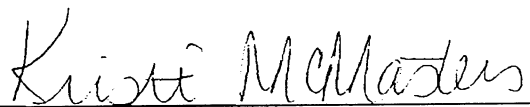
9. The Tier 2 Defendants have provided only limited and selected financial information which is categorized as Partial Presentation Statements. The Tier 2 Defendants have not provided complete sets of financial statement documents whether prepared on a GAAP basis or OCBOA basis. The Tier 2 Defendants have not provided any Footnote Disclosures or data commonly incorporated into Footnote Disclosures. At a minimum, the data incorporated for a Tier 2 Defendant into a Tier 1 Defendants' GAAP Statements and Footnote Disclosures has to exist in order for such audit reports to be issued (on an unqualified basis). All of the aforementioned data including working trial balances and/or subsidiary financial statements is commonly referred to as "consolidating financial statement" data ("Consolidating Data").
10. Finally, GAAP and/or OCBOA Statements report tax assets and/or obligations and tax expense and/or benefits which utilize and rely upon data from filed tax returns ("Tax Data").
11. The aforementioned GAAP Statements, Footnote Disclosures, Consolidating Data and Tax Data are also relevant to evaluating the financial condition, net worth and/or Ability To Pay of the Defendants. A summary of the data either produced or not produced pursuant to the Plaintiff's Requests for Production No. 107 and 11 (as supplemented on October 24, 2008 letter) is included on **Appendix A**.

Further, Affiant sayeth not.


DAVID R. PAYNE

SUBSCRIBED AND SWORN TO BEFORE ME on this 17th day of February, 2009, to certify which witness my hand and official seal.




Notary Public in and for
The State of Oklahoma

Appendix A

Tier	Defendant Classification	Full Presentations Statements		Partial Presentation Statements		Consolidating Data	
		Text Disclosures (10-k)	GAAP Disclosures (Audit Statements)	GAAP Disclosures (Audit Statements)	OCBA Disclosures (Internal Statements)	Tax Disclosures (Tax Returns)	Other Disclosures (WTB, Plans, Projections, Budgets)
1	1a. Tyson Foods, Inc.	9-08	9-08	N/A	N/A	N/D	N/D
2	1b. Tyson Poultry, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ³	N/D
2	1c. Tyson Chicken, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ²	N/D
2	1d. Cobb-Vantress, Inc.	N/A	N/D	N/D	N/D	9/2007-10/2005 ²	N/D
1	2a. Cal-Maine Foods, Inc.	5-08	5-08	N/A	N/A	N/D	N/D
2	2b. Cal-Maine Farms	N/A	N/D	N/D	N/D	N/D	N/D
1	3a. Cargill, Inc.	N/A	N/D	(Financial Summary - 2004) ¹	N/D	N/D	Asset Purchase Agreement (3)
2	3b. Cargill Turkey Production, LLC	N/A	N/D	(Financial Summary - 2004) ¹	N/D	N/D	N/D
1	4a. George's Inc.	N/A	N/D	N/D	BS and IS Only (8/08- 9/05) without disclosures	N/D	N/D
2	4b. George's Farms, Inc.	N/A	N/D	N/D	BS and IS Only (8/08- 9/05) without disclosures	N/D	N/D
1	5. Peterson Farms, Inc.	N/A	N/D	N/D	BS Only (9/07-9/04); Comparative BS (08/06) without disclosures	N/D	N/D
1	6. Simmons Foods, Inc.	N/A	N/D	Balance Sheet Only (10/08, 12/07-12/03) without disclosures	N/D	N/D	N/D
1	7. Willow Brook Foods, Inc.	N/A	N/D	Balance Sheet and Income Statement (10/08-12/03) without disclosures	N/D	N/D	Asset Purchase Agreement (3)

N/D- No Disclosure

N/A- Not Applicable

WTB - Working Trial Balance

BS - Balance Sheet

IS - Income Statement

(1) Provided a typed summary of selected but incomplete data extracted from the audit statements

(2) Balance Sheet only; omits disclosure of full tax return.

(3) Asset Purchase Agreement between Cargill and Willowbrook contains redacted portions.

David Payne

Report

See In Camera Production